

CANVASSING



KANSAS

AN UPDATE ON ELECTION NEWS IN KANSAS

Federal Election Reform Efforts Still Alive

Federal election reform efforts in Congress are alive. Reform was a hot issue nationwide for six months after the 2000 presidential election as people demanded fixes for the so-called "Florida problem."

Many bills were introduced representing a variety of approaches to reform, but discussions stalled in the summer and early fall in 2001 due to a lack of agreement on how to proceed, coupled with the distractions of economic recession and the September terrorist attacks.

In late fall, however, interest in election reform resurged with a general feeling that most people do not want to enter the election seasons of 2002, or even 2004, with the same system that produced the difficulties in 2000.

As of this writing, it appears that the U.S. House of Representatives and the U.S. Senate will produce quite different bills and the details will be resolved in conference committee. There is enough political will to pass legislation of some sort, and President Bush has publicly supported some reform ideas and even included funding for three years in his budget.

The House of Representatives has passed HR 3295, the so-called Ney/Hoyer bill, named for the two representatives who played principal roles in crafting the legislation. The official name of the bill is the Help America Vote Act of 2001.

As reported in an earlier issue of this newsletter, Secretary of State Ron Thornburgh had a rare opportunity as president of the National Association of Secretaries of State (NASS) to assist

the congressmen's staffs with drafting the bill (see *Canvassing Kansas*, December 2001, p. 4).

The provisions changed somewhat during passage in the House, but the bill would still establish a new Election Assistance Commission, provide federal matching funds (75 percent federal, 25 percent state or local) for election equipment upgrades and other improvements, and establish seven minimum standards for states' election systems.

The main vehicle for election reform in the Senate is S. 565, called the Dodd bill after its principal author, Sen. Christopher Dodd of Connecticut. Its cosponsor is Sen. Mitch McConnell of Kentucky, and the official name of the bill is the Equal Protection of Voting Rights Act.

The original Dodd bill contained a number of federal mandates not favored by many election officials, and it was replaced with a substitute bill in committee.

The substitute bill contains fewer mandates and somewhat less bureaucracy, but the basics of the bill remain. As of this writing, the substitute bill has passed out of committee and is expected to be debated on the Senate floor in the next few weeks.

Federal funding in the bill does not require state/local matches, but is based on a competitive grant system, where a given state or locality would have to submit a plan for election improvements and funds would be granted or denied based on the plan.

The bill also contains provisions on identification of voters at the polls,

election technology, voter registration systems, disabled voting, and provisional ballot procedures.

NASS and the National Association of State Election Directors have lobbied for amendments to the bills to make the requirements easier to administer. It is impossible to tell at this time how the final legislation will look, but it appears that all the necessary players--House, Senate and President--are committed to passing some type of election reform legislation.

There are provisions to like in both bills, and there are provisions in each that some election officers might oppose if given a choice. Whatever the result, it is clear that if legislation is passed, it will affect all election officers and voters.

It is important to continue monitoring the legislative process and prepare for discussions to decide how it will be implemented in Kansas.

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2001 Midwest Election Officials Conference

The 2001 Midwest Election Officials Conference (MEOC) was the fourth time in 12 years that election officers from the four-state area--Kansas, Missouri, Iowa and Nebraska--met to discuss the issues of the day, make friends, and learn about the latest election trends.

The first MEOC was in 1989, followed by MEOC II in 1991, then MEOC III in 1997, and MEOC IV in 2001. Plans are for the conference to assume a regular four-year interval.

MEOC IV was held December 9-12 in the Westin Crown Center Hotel in Kansas City, MO. Among the 260 county election officers who attended, Kansas led the way with 107 registrants, followed by Missouri with 61, Iowa with 50, and Nebraska with 42. The 107 Kansas registrants represented 61 counties.

A significant part of the conference in 2001 was a technology exposition. There were 17 vendor booths displaying the latest in voting technology and voter registration and election management software. The companies operating the booths provided an additional 37 registrants to the conference.

Hosts of the conference were Kansas Secretary of State Ron Thornburgh, Iowa Secretary of State Chet Culver, Nebraska Secretary of State John Gale, and Missouri Secretary of State Matt Blunt. Secretary Blunt was unable to attend since, as an officer in the Naval Reserves, he was called to active duty in Europe in September. Blunt was represented at the conference by Executive Deputy Secretary of State Dan Ross.

One of the major topics of discussion at MEOC was election reform in the wake of the 2000 presidential election experience.

Colorado Secretary of State

Donetta Davidson and former Iowa Attorney General Bonnie Campbell discussed reform efforts at the national level, while former Broward County, Florida, election supervisor Jane Carroll delivered a rousing and humorous description of the "real" Florida story.

A panel discussion during lunch featured U.S. Senators Sam Brownback (R-Kan.) and Kit Bond (R-Mo.) reviewing federal efforts at election reform legislation.

The second day of the conference was devoted to breakout sessions, including presentations on youth voting efforts, media relations, recruiting election board workers, international election observation, and emergency planning.

On the final day of the conference, motivational humorist Juli Burney from Doane College in Nebraska had the audience nearly rolling in the aisles with her hilarious outlook on life and her "You're a Winner" message.

During their free time, conference attendees were able to finish up their Christmas shopping in Crown Center or visit one of the many attractions in the downtown area around the hotel.

Bus trips to the Ameristar Casino and the Country Club Plaza were offered for Monday evening entertainment. (There were reports of some county clerks actually leaving the casino with more money than they had when they entered!)

According to the evaluation forms completed by the conference attendees and the verbal comments received by the MEOC planning committee, the conference was a huge success. The long-range plan is for MEOC V to be held in 2005.

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RON THORNBURGH

Kansas Secretary of State

Dear Friends:

As of this publication, Congressional action on federal election reform is up in the air. Since the last issue of this newsletter, the House passed the Help America Vote Act and the Senate is currently debating the Equal Protection of Voting Rights Act. While the House and Senate appear committed to advancing election reform, action has been minimal.

Senator Christopher Dodd (D- Conn) and Senator Mitch McConnell (R-KY) recently introduced the Equal Protection of Voting Rights Act. This legislation contains a number of provisions including identification of first time voters at the polls, election technology improvements, voter registration systems upgrades, accessible disabled voting, and provisional ballot procedures. The Senate is currently debating this bill and it is difficult to predict the final product.

Full funding of the Senate bill mandates is my top priority. When the federal government imposes election reform mandates, those mandates should be fully funded by the feds. The bill uses a competitive grant system, which requires a state or locality to submit a plan for election improvements and funds are granted or not granted based on a federal panels review of the plan. Larger states are more likely to receive the competitive grant funding because they have more voters and that equals more of an impact. The federal government will spend dollars for the greater impact and smaller states will get left out.

I support the formula-based funding element passed in the House bill because it allows every state to automatically receive some level of funding for implementing federal election reform requirements. I have worked with Senator Roberts and a coalition of smaller states and believe the Senate bill will be amended to include a similar funding element.

I will continue to monitor the activity in Congress and will pursue the legislation that best fits Kansas.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Thornburgh", written over a horizontal line.

RON THORNBURGH
Secretary of State

2002 Elections

There are a number of bills being considered by the Kansas Legislature during the 2002 session that will affect election officers if they become law.

The Secretary of State has proposed four bills, the Kansas County Clerks and Election Officials Association has proposed one bill through its election committee, and various bills have come from other sources.

As usual, the Secretary of State's Elections Division is monitoring legislation and updating county election officers of developments as they occur.

The principal means of updating county election officers (CEOs) is through a weekly legislative update memorandum e-mailed weekly to members of the KCCEO's election committee and other CEOs who wish to receive it.

Bills Proposed by SOS

Senate Bill 468—The Secretary of State proposed this bill 468 as a technical cleanup bill. It has three provisions: (1) It clarifies that a voter's registration may ultimately be cancelled if the voter fails to respond to a confirmation notice and misses two elections *only* in cases where the confirmation notice was sent due to an apparent *out of county* move (Note: This won't change current practice; it is merely a clarification to prevent incorrect interpretations of existing law.); (2) It clarifies a provision passed in 2001 SB 127 dealing with replacing absent members of county canvassing boards (Note: This change makes the statute work for counties

with more than three county commissioners. Last year's bill attempted to do this, but failed to strike the word "two" in reference to the number of vacancies that may be filled.); (3) It reduces the qualifications of petition circulators for gubernatorial candidate nomination petitions. (Note: This was done by 2001 SB 127 for most types of petitions, but gubernatorial petitions were missed in that bill.)

Senate Bill 502—The Secretary of State proposed this bill as an election administration bill. It has two provisions: (1) It would require the posting of a document called the Voter's Rights and Responsibilities at each polling place on election day, and (2) It would grant the county election officer the authority to determine the validity of candidate nominations for city and school board offices, as they already have authority to determine validity of candidate filings for county and township office.

House Bill 2761—The Secretary of State proposed this bill to clarify when felons' voting rights are restored. It would resolve a contradiction in several laws and establish a single policy that a person loses the right to register, vote, hold public office, and serve on a jury upon conviction of a felony, and those rights are restored when the person is released from prison, parole, probation, or any other sentence.

Democracy Fund Bill—The Secretary of State has proposed establishing a Democracy Fund to receive federal funds for election reform if appropriated by Congress. The

funds could be used at the state or county level for various specified purposes related to improving voter registration and election procedures. The request for the fund is part of the state's general appropriations bill and does not have a separate bill number.

Bill Proposed by KCCEO Election Committee

The KCCEO's election committee has proposed a bill to allow the county election officer the option of moving the county canvass after an election from Friday to Monday. If the CEO chooses to move the canvass, notice must be published in a newspaper of general circulation. This bill is intended to provide more time for processing provisional/challenged ballots.

Other Election Bills

Senate Bill 378—This is a congressional redistricting bill proposed by the interim Special Committee on Redistricting. It divides the state into the required four U.S. House of Representatives districts.

Senate Bill 379—This is a Kansas Senate redistricting bill proposed by the interim Special Committee on Redistricting. It divides the state into the required 40 Kansas Senate districts.

Senate Bill 381—This is a congressional redistricting bill proposed as an alternative to SB 378. It divides the state into the required four U.S. House of Representatives districts.

Senate Bill 394—This bill deals with closure of schools by local boards of education. It allows closure of a school by a majority vote of the board. It deletes provi-

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sions in current law providing for public hearings, publications, protest petitions and elections before closure of a school.

Senate Bill 520—This bill would create a district attorney position in the 19th judicial district (Cowley County only) in place of the county attorney.

House Bill 2135 (Substitute)—This bill was introduced in 2001. It would allow Director of Motor Vehicles (DMV) to issue driver's licenses to persons who submit proof of lawful residence in the U.S. or who have obtained an IRS individual taxpayer identification number. This has the potential effect of causing DMV to offer voter registration to some non-citizens as long as they are legal residents.

House Bill 2607—This bill deals with mail ballot elections. It adds rural water districts to the list of local governing bodies that may conduct mail ballot elections.

House Bill 2625—This is a Kansas House of Representatives redistricting bill proposed by the interim Special Committee on Redistricting. It divides the state into the required 125 Kansas House of Representatives districts. This bill was replaced by Substitute for HB 2625.

House Bill 2696—This is a congressional redistricting bill proposed as an alternative to SB 378. It divides the state into the required four U.S. House of Representatives districts.

House Concurrent Resolution 5026—This concurrent resolution,

if passed by a 2/3 majority of each house of the Legislature, would create a special statewide vote in November 2000 (yes, it really says 2000; this will need to be changed to 2002) on a constitutional amendment. If approved by the voters, it would amend Article 11, Section 1.

House Concurrent Resolution 5042—This concurrent resolution, if passed by a 2/3 majority of each house of the Legislature, would create a special statewide vote in November 2002 on a constitutional amendment. If approved by the voters, it would amend Article 5, Section 1 of the Kansas Constitution to allow 17-year-olds to vote in the primary election if they will be 18 years old before the general election.

House Concurrent Resolution 5043—This concurrent resolution, if passed by a 2/3 majority of each house of the Legislature, would create a special statewide vote in November 2002 on a constitutional amendment. If approved by the voters, it would amend Section 7 of the Bill of Rights of the Kansas Constitution to allow the display of the Ten Commandments on public property.

House Concurrent Resolution 5044—This concurrent resolution, if passed by a 2/3 majority of each house of the Legislature, would create a special statewide vote in November 2002 on a constitutional amendment. If approved by the voters, it would amend Article 5, Section 1 of the Kansas Constitution to allow 17-year-olds to vote in the primary election if they will be

18 years old before the general election. Note: This resolution is identical to HCR 5042.

House Concurrent Resolution 5045—This concurrent resolution, if passed by a 2/3 majority of each house of the Legislature, would create a special statewide vote in November 2002 on a constitutional amendment. If approved by the voters, it would amend Article 11, Section 1 of the Kansas Constitution to allow the Legislature to provide limits on the increase of the appraised valuation of real property subject to taxation from one tax period to another.

House Concurrent Resolution 5047—This concurrent resolution, if passed by a 2/3 majority of each house of the Legislature, would create a special statewide vote in November 2002 on a constitutional amendment. If approved by the voters, it would amend Article 1, Section 1 of the Kansas Constitution to remove the two-term limit on the governor.

KCCEOA In May

Looking forward to seeing everyone at the Spring statewide conference **May 7-10** at the Ramada Inn in Hutchinson.

The Secretary of State's office will be there **Thursday May, 9** for a full day of discussions on federal election reform, legislation, redistricting, the new Kansas Elections Standards, and preparations for the 2002 elections.

Redistricting Process Continues in Legislature

The major factor affecting the administration of elections in 2002 is redistricting.

The Legislature must redraw district lines for Kansas' four seats in the U.S. House of Representatives, the 125 seats in the Kansas House of Representatives, the 40 seats in the Kansas Senate, and the 10 State Board of Education districts.

In Kansas, the Legislature redraws district lines using the same legislative procedure as for any other bill. Thus, redistricting plans originate in interim committee meetings and are then reviewed by regular committees early in the legislative session, then they must be passed by both houses and signed by the governor.

The Kansas Constitution also requires an automatic review by the Kansas Supreme Court for the legislative districts. Congressional districts are often reviewed by federal court if a lawsuit is filed, but judicial review is not automatic.

Some states have a state official other than the Legislature draw district lines, or they have an independent commission charged with the task. In such cases the Legislature sometimes votes on the proposed plan, either approving or rejecting it, but may not alter it.

Many states with an independent commission have their redistricting plans drawn during the odd-numbered year preceding the election year, giving them more time for court review and preparation for the election.

Because Kansas uses the regular legislative process for redistricting, it begins later and therefore finishes later, causing final approval to be closer to election day than in some other states.

Legislators are aware of the urgency in completing the redistricting process. As of this writing, each house of the Legislature has approved a plan for its own districts.

There is no consensus on congressional redistricting yet.

Once the Senate districts are finalized, the State Board of Education redistricting plan can be completed.

Board of Education districts are comprised of four Senate districts each, so it is a relatively simple matter to group the 40 Senate districts into 10 Board of Education districts once the Senate plan is finished.

It is imperative that the newly drawn district lines become the basis for everything associated with conducting the election this year.

As the state legislative plans are approved and sent to the Supreme Court for review, we will begin preparing computer programs to accommodate the new districts, and we will keep county election officers apprised as the process unfolds.

Likewise, we will monitor the congressional plan as it moves toward approval and keep track of legal actions that will cause federal court review.

Election Officers Need to Know...

All election officers need to be mindful of effects of redistricting:

Candidate filing deadlines

- **noon on June 10** for offices *not* affected by redistricting.
- **June 24** for offices affected by redistricting, unless redistricting is not completed by June 11.
- If redistricting is not completed by June 11, the filing deadline for Congress, Kansas House and Senate and State Board of Education is moved to **July 12 at noon**. (Note: The Kansas Senate is not up for election in 2002, so the filing deadline will only be relevant if there is a vacancy in a Senate seat,

with a subsequent election to fill the unexpired term.)

Petition requirements

- Candidate petition requirements are reduced by law in redistricting years because candidates have less time to collect signatures.

Voter registration

- Voter files will have to be updated to account for each voter in the proper districts.

Ballot preparation

- Election officers will need to carefully review the new redistricting laws when they are finalized and be sure each precinct is accounted for in the proper district. The

number and style of ballots going to each voting place will depend on what districts the precincts are in.

Election night tabulation

- The Secretary of State's office will expect election night results to be reported according to the new districts.

Official election abstracts

- The Secretary of State's office will prepare abstracts based on the new configuration of precincts and districts and distribute the abstracts to county election officers, as usual. County election officers will be required to submit their official election results on those abstracts.

Kansas Election Standards Move Toward Adoption

The Election Standards project is on schedule with an anticipated adoption by the Kansas County Clerks and Election Officials Association (KCCEOA) in time for this year's elections.

Readers of this newsletter might remember that Secretary of State Ron Thornburgh appointed a nine-member task force of county election officers in 2001 to assist members of his staff in developing the contents of the standards.

A draft copy was distributed to each county at the Kansas Association of Counties convention in Wichita in November 2001. During the ensuing months, comments and suggestions for improvement of the standards have been collected. The suggestions are being reviewed, and the final version of the standards will be distributed at the annual spring convention of the KCCEOA in May 2002 in Hutchinson.

Secretary of State Ron Thornburgh initiated the election

standards project with the intention of producing a document that the KCCEOA would adopt as a procedural guide for its members.

Time will be allotted at the spring conference in Hutchinson for a full discussion of the contents of the standards before the KCCEOA considers official adoption as a professional association. Also, a plan will be adopted for future updates of the standards.

Adoption of the standards will move Kansas a long way toward improved consistency in the application of election laws across the state. Further, it will provide guidance on various election procedures for anyone involved in the administration of Kansas elections--county election officers, county canvassers, precinct election board workers, and county attorneys and counselors.

Many of the issues raised by the 2000 presidential election and the difficulties in counting and recounting ballots experienced in Florida

and elsewhere are addressed in the election standards within the parameters of Kansas laws, regulations, court decisions and Attorney General opinions.

Many questions about how to administer and count provisional ballots, how to count write-in votes, what constitutes a vote, and how to conduct a recount are answered in the election standards.

The fact that laws are often not written with enough specificity to guide election officers points to the need for standards to bring all the various types of legal resources together in one summary document.

The process used in developing the election standards was designed to provide the summary information and to fill a longstanding need--a single document that specifies procedures and rules to be used by individuals at all levels of government fulfilling all the various duties involved in the election administration process.

The Postman Sometimes Rings Late!

As election officers are all aware, we depend a lot on the U.S. mail to conduct our business.

Most of us who use the mail for official purposes every day recognize the excellent job the U.S. Postal Service does in handling the billions of pieces of mail it receives each year. However, there are times when you wonder.

Shawnee County Election Commissioner Elizabeth Ensley reports that recently two official pieces of mail were returned to her office 15 years after being sent.

Apparently some certificates of registration (nowadays we often call them notices of disposition) were mailed on June 16, 1986 by

then-election commissioner Mary Hope.

Nothing more was heard of the certificates until they arrived back in Ensley's office in December 2001, stamped "Not deliverable as addressed--unable to forward."

The postal delivery person was unable to tell if the certificates were lost by the Post Office, then found and delivered, or if someone at the registrant's residence found them and mailed them in.

Maybe at the height of last fall's anthrax scare the post office was sweeping out all the corners of the office and emptying all sacks and found things they didn't know they had.

We depend on the mail to deliver certificates of registration, confirmation notices, mail ballots, and other official mailings. We rely on postal records to conduct our annual National Change of Address check of the voter file.

No one is saying we shouldn't rely on them, because the service is usually very good, but when it breaks down, we as election officers don't like to be left "holding the bag."

At any rate, Ensley's experience probably did no harm because the applicants were considered registered and able to vote since the certificates of registration were not immediately returned indicating different addresses.

